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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,100	11:01/2000	John M. Pinneo	P1-007	9615

7590 07/07/2003  
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EXAMINER

VO, HAI

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/708,100

Applicant(s)

PINNEO ET AL.

Examiner

Hai Vo

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 28-30.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-4, 6-9 and 11.

Claim(s) withdrawn from consideration: 12-27.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

Continuation of 5. does NOT place the application in condition for allowance because: The claims do not require the diamond directly deposited on a non-metallic framework material; therefore Jury still reads on the claimed subject matter. Applicants need to be more specific about the relative position of the diamond and the non-metallic framework material in the article to overcome the finding of obviousness. The arguments that office action has misapplied the case law with respect to optimum or workable ranges and routine experimentation are not found persuasive. Jury is silent as to a thickness of the diamond. The skilled artisan must rely on his own knowledge, since it is well-known in the art the diamond is expensive therefore it is obvious to one of ordinary skill in the art to employ as little of the diamond as possible to reduce cost. Since the motivation to provide the diamond thickness of about 2 microns is sufficient and logical, the examiner does not need to provide a secondary reference in support of the assertions. Further, Applicants argue that the Jury reference in combination with Kasprzyk does not teach or suggest the foam porosity. This is not found persuasive. Jury teaches a metal foam made of a reticulated synthetic plastics foam (column 3, line 48). Jury is silent as to foam porosity. Kasprzyk teaches a reticulated polyurethane foam having a porosity of 100 pores per inch (column 3, lines 41-43). Kasprzyk does rectify the missing feature in Jury because a reticulated polyurethane foam is an example of the metal foam as described by Jury.



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